

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
MARK S. FARRIS d.b.a. ZINDORF
APARTMENTS.

Appellant,

v.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent .

PCHB No. 1058

FINAL FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

PER W. A. GISSBERG:

A formal hearing on the appeal of Mark S. Farris to a \$50.00 civil penalty for an alleged smoke emission violation of respondent's regulations came on before all Board members in Seattle, Washington, on December 14, 1976.

Appellant appeared pro se, respondent by and through its attorney,
Keith D. McGoffin.

Having heard the testimony and being fully advised, the Board makes and enters the following

1 FINDINGS OF FACT

2 I

3 Respondent, pursuant to RCW 43 21B 260, has filed with this
4 Board a certified copy of its Regulation I containing respondent's
5 regulations and amendments thereto

6 II

7 Mark S Farris (hereinafter appellant) is the owner of the Zindorf
8 Apartments (70 units) in Seattle, Washington On July 20, 1976, black
9 smoke was emitted from a metal stack on the apartment building for an
10 observed time of six (6) consecutive minutes of an opacity equal to
11 or greater than that of a Ringlemann 4 to 5.

12 III

13 Respondent's Regulation I, Section 9 03(b)(1) makes it unlawful
14 to cause or allow the emission of the type described in Findings of
15 Fact II

16 IV

17 Appellant had purchased the building only twenty (20) days prior
18 to the date of the violation and the manager had not yet familiarized
19 himself with the operation of the furnace While the furnace had
20 only recently been cleaned, appellant admitted to the violation,
21 indicated his "sympathy with pollution laws," but claimed his ignorance
22 thereof, and indicated that if financing is obtainable he will change
23 from oil to gas or electrical energy

24 V

25 Appellant and his manager were both unaware of the provisions of

26 FINAL FINDINGS OF FACT,
27 CONCLUSIONS OF LAW AND ORDER - 2

1 Section 9.16 of respondent's regulations which, under certain circum-
2 stances and if strictly followed, may excuse that which would otherwise
3 be a violation of the regulations.

4 VI.

5 A civil penalty in the amount of \$50 00 was imposed by respondent
6 because of the violation and for the reason that there had been one
7 other prior smoke violation attributable to the facility under a
8 previous owner. Appellant was unaware of such prior violation.

9 VII.

10 Any Conclusion of Law hereinafter stated which should be deemed a
11 Finding of Fact is hereby adopted as such.

12 From these Findings the Pollution Control Hearings Board comes
13 to these

14 CONCLUSIONS OF LAW

15 I.

16 Appellant violated Section 9.03(b)(1) of respondent's Regulation I.

17 II.

18 As Mr. Farris himself noted, "ignorance of the law is no excuse "
19 Yet, such circumstance does bear upon the amount of the civil penalty
20 and, when combined with the fact that this violation is appellant's
21 first and that he is endeavoring to achieve compliance with respondent's
22 regulations by converting to a pollution free energy, we believe that
23 the civil penalty, while reasonable, should be conditionally suspended.

24 III.

25 Any Finding of Fact which should be deemed a Conclusion of Law is
26 hereby adopted as such.

27 FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER - 3

1 Therefore, the Pollution Control Hearings Board issues this
2 ORDER

3 The civil penalty is suspended upon the condition that appellant
4 not violate respondent's regulations for a period of six months from
5 the date of this Order

6 DATED this 17th day of December, 1976.

7 POLLUTION CONTROL HEARINGS BOARD

8
9 Art Brown

10 ART BROWN, Chairman

11
12 W. A. Gissberg

13 W. A. GISSBERG, Member

14
15 Chris Smith

16 CHRIS SMITH, Member